

Exhibit 20

Deposition of Kyle Kingsbury
(February 17, 2017) (excerpted)

REDACTED

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

Cung Le, Nathan Quarry, Jon)
Fitch, Brandon Vera, Luis Javier)
Vazquez, and Kyle Kingsbury on)
behalf of themselves and all)
others similarly situated,)
)
Plaintiffs,)
)
vs.) Case No. 2:15-cv-
) 01045-RFB-(PAL)
Zuffa, LLC, d/b/a Ultimate)
Fighting Championship and UFC,)
)
Defendants.)
)

DEPOSITION OF KYLE KINGSBURY

Taken at the Offices of Boies, Schiller & Flexner
300 South 4th Street, Suite 800
Las Vegas, Nevada

On Friday, February 17, 2017
At 9:19 a.m.

Reported by: Jane V. Efaw, CCR #601, RPR

1 mind, and they wanted to review the contracts with
2 management and lawyers.

3 And at that time, Dana White fired all
4 members of the American Kickboxing Academy, and he
5 went on to post a video with several F bombs and foul
6 language. I think he even said, "Who the fuck is
7 Cain Velasquez anyways," a guy, my personal training
8 partner and teammate who would go on to become
9 heavyweight champ.

10 And I think Jon Fitch had to call Lorenzo to
11 get his job back and really walk on eggshells in his
12 conversation with Lorenzo because he realized that
13 every fighter on that team would be hurt if they
14 didn't get in line and do what they said and sign the
15 contract as stated.

16 So from that point on, I understood that you
17 either do as you're told or you walk. You really
18 have no other choice.

19 Q. So I think you said that Dana White fired
20 all members of the American Kickboxing Academy. Were
21 you fired at that time?

22 A. I had already signed my contract for the
23 Ultimate Fighter Season 8. And in that contract,
24 there was the new likeness agreement. And so from my
25 understanding talking to my management, I was in the

1 BY MR. WIDNELL:

2 Q. Was Cain Velasquez fired at that time?

3 A. It would make sense that Cain was fired at
4 that time with Dana specifically calling him out.

5 Q. But do you know if he actually was fired at
6 that time?

7 A. I don't recall.

8 Q. But you had said that all of the members of
9 the American Kickboxing Academy were fired at that
10 time?

11 MR. DELL'ANGELO: Object to the form.

12 THE WITNESS: My answer was based on the
13 fact that Dana had called out the members of American
14 Kickboxing Academy saying that they would never fight
15 in the UFC again and that they're pretty much all
16 scumbags and don't deserve to fight.

17 BY MR. WIDNELL:

18 Q. Is there anyone you actually do know that
19 was definitely fired at that time?

20 MR. DELL'ANGELO: Object to the form.

21 BY MR. WIDNELL:

22 Q. From American Kickboxing Academy.

23 A. I know for a fact Jon Fitch was let go, and
24 that's why he had to call Lorenzo to get his job
25 back.

1 clear, but I was not sure had my teammates continued
2 to press the issue and not fold to Dana White's
3 pressure, that he might have fired me as well or at
4 least punished me in different ways.

5 But the lesson was learned at that point
6 that you don't talk back. You don't raise questions.
7 And you don't try to change any wording that they
8 give to you to sign in the contract.

9 Q. So you were not fired at that time; is that
10 correct?

11 A. Not to my knowledge.

12 Q. Was Josh Koscheck fired at that time?

13 MR. DELL'ANGELO: Object to the form.

14 THE WITNESS: From what I understand, the
15 fighters who fought in the UFC for American
16 Kickboxing Academy were all let go, but it's possible
17 that they had -- I don't know. It was just my
18 understanding that the guys that were fighting in the
19 UFC at that time at American Kickboxing Academy were
20 all let go.

21 Q. But you don't know if Josh Koscheck was
22 fired at that time?

23 MR. DELL'ANGELO: Object to the form.

24 THE WITNESS: I don't recall at this time.

25 ///

1 Q. Do you know of anyone else who was fired at
2 that time?

3 A. Not at this time, but it was understood that
4 all of our jobs were in jeopardy.

5 Q. And that's because Dana White went online
6 and said that you were all -- I think you used the
7 term "scumbags"?

8 A. Yeah, and that's probably putting it
9 lightly. But he specifically stated the members of
10 the American Kickboxing Academy, and we fall under
11 that umbrella.

12 Q. Is it fair to say that over the years
13 management at UFC made numerous comments that you
14 found offensive?

15 MR. DELL'ANGELO: Object to the form.

16 THE WITNESS: I didn't just find their
17 comments offensive. A lot of times their comments
18 carried weight in taking away of our notoriety and
19 who we were. They weren't just belittling personal
20 attacks. They would cause us to lose value. They
21 would make us look like we weren't great fighters or
22 that we should be lucky to fight in the UFC and lucky
23 to fight for Dana.

24 BY MR. WIDNELL:

25 Q. And how did they do that?

1 A. Dana's done it in numerous ways by talking
 2 about fighters over the years. It's not just with
 3 American Kickboxing Academy. He's done it to several
 4 people. Tito Ortiz. The list really goes on and on.
 5 I can't recall any more at the moment.

6 Q. So other than talking bad about fighters,
 7 what else did he do?

8 A. What else did he do in the --

9 MR. DELL'ANGELO: Object to the form.

10 THE WITNESS: In threats?

11 BY MR. WIDNELL:

12 Q. I'm asking you what -- you said that it was
 13 more than just belittling fighters. So I would think
 14 talking bad about fighters is belittling fighters.
 15 Would you agree with that?

16 A. I would agree that talking bad about
 17 fighters is belittling them. But to answer your
 18 previous question, through threats and direct
 19 punishment, Dana really controlled how our careers
 20 went. And he could stick you on the undercard in
 21 your next fight against some unfavorable opponent.
 22 If you're on the undercard, you would make far less.
 23 If anything in sponsorship because you weren't on TV.
 24 He might sit you on the bench for a while.
 25 That's happened to numerous fighters. And then give

1 THE WITNESS: I believe that Nate was the
 2 first person I spoke with about the lawsuit.

3 BY MR. WIDNELL:

4 Q. Did he give you any reason why he was
 5 reaching out to you personally?

6 MR. DELL'ANGELO: Object to the form.

7 THE WITNESS: Nate was a personal friend of
 8 mine that I had met on a goodwill tour for the
 9 military. And we had spent some time overseas. And
 10 we had quite a bit of downtime on our tour for the
 11 troops, and we had discussed quite a bit of the way
 12 the UFC had handled him personally and the way the
 13 UFC had handled me personally and various other
 14 fighters.

15 So when we spoke about the lawsuit, it was
 16 already understood what was going on and some of the
 17 things that we needed to change moving forward to
 18 make it a legitimate sport.

19 BY MR. WIDNELL:

20 Q. Are there any other reasons you can think of
 21 for why he reached out to you?

22 MR. DELL'ANGELO: Object to the form. Calls
 23 for speculation.

24 THE WITNESS: I don't recall at this time if
 25 there were any other.

1 you an unfair brutal opponent on an undercard. There
 2 were a number of different ways that Dana would use
 3 his power to our disadvantage.

4 Q. And what did he do specifically to you?

5 MR. DELL'ANGELO: Object to the form.

6 THE WITNESS: I believe that Dana
 7 specifically, by attacking my team personally, had a
 8 direct impact on my view of the way the system worked
 9 and the way that Dana White handled the fighters.
 10 And from that point on, I understood to behave and
 11 not ruffle his feathers.

12 Joe Silva used similar tactics in his match
 13 making. And there were direct personal threats from
 14 Joe Silva.

15 BY MR. WIDNELL:

16 Q. And is it fair to say that you found that
 17 conduct offensive?

18 A. I found that conduct more than offensive. I
 19 found it detrimental to my career.

20 Q. So you mentioned that Mr. Quarry was the one
 21 who first contacted you, I think, about the lawsuit;
 22 is that correct?

23 A. Yes.

24 MR. DELL'ANGELO: Object to the form.
 25 Mischaracterizes the witness's testimony.

1 (Whereupon Defendant's Exhibit 78
 2 was marked for identification.)

3 BY MR. WIDNELL:

4 Q. I'm handing you a document marked
 5 Exhibit 78. Does that document look familiar to you?

6 A. It does look familiar.

7 Q. I should say that the Bates number for that
 8 document is LE Plaintiffs-0049960. My understanding
 9 is that this is a Facebook message from Nathan Quarry
 10 to you. Does that look correct to you?

11 A. That looks correct.

12 Q. Can you read the line that starts with
 13 "Pierced told me"?

14 A. "Pierced told me you are down to join the
 15 lawsuit. Is that true? We could really use more
 16 people in San Jose, as the UFC is trying to move the
 17 venue to Vegas where they own the courts."

18 Q. What is your understanding of what
 19 Mr. Quarry meant by that?

20 A. My understanding -- first of all, that's a
 21 typo. "Pierced" is really Mike Pierce. He was also
 22 on the tour for the troops with Nate and I and was
 23 also part of the conversations about the mishandling
 24 and mistreatment by the UFC. He's a personal friend
 25 of both of ours.

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1 I think what Nate is alluding to with "The
 2 UFC is trying to move the venue to Vegas where they
 3 own the courts" is that any fighter previously, due
 4 to our contracts, if they wanted to dispute anything
 5 with the UFC, they would need to go to court in
 6 Las Vegas. And in his personal opinion, "where they
 7 own the courts," I believe that's because no fighter
 8 had previously been victorious, to my recollection.
 9 BY MR. WIDNELL:

10 Q. Do you agree with that assessment? That UFC
 11 owns the courts in Las Vegas?

12 MR. DELL'ANGELO: Object to the form.

13 THE WITNESS: I don't agree with that
 14 statement. That the UFC owns the courts in
 15 Las Vegas. I do agree with the fact that it has been
 16 very hard for fighters to win a lawsuit against the
 17 UFC in Las Vegas.

18 BY MR. WIDNELL:

19 Q. Why is that?

20 A. I'm not sure at the moment. It's just if
 21 you look at the track record and we remember guys
 22 like Randy Couture getting tied up in court for years
 23 and then going back with their tail in between their
 24 legs to fight again for the UFC after burning the
 25 clock on the precious window that they have to fight.

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1 (Whereupon Defendant's Exhibit 79
 2 was marked for identification.)

3 BY MR. WIDNELL:

4 Q. I'm handing you a document that's marked
 5 Exhibit 79. The Bates number on this document is LE
 6 Plaintiffs-0049959. And it appears to be a Facebook
 7 message from you to Mr. Quarry. Does that look
 8 correct to you?

9 A. That looks correct to me.

10 Q. Would this be your response to Mr. Quarry's
 11 message?

12 MR. DELL'ANGELO: Object to the form.

13 THE WITNESS: This was a response to, I
 14 believe, one of Nate Quarry's posts online, on
 15 Facebook.

16 BY MR. WIDNELL:

17 Q. Do you recall which post it was?

18 A. I believe he was talking about the potential
 19 for a lawsuit and the mistreatment of fighters.

20 Q. So if you go back to Exhibit 78. It's the
 21 exhibit I handed you before handing you this one.

22 A. Uh-huh.

23 Q. What is the time stamp on that message, the
 24 date and time stamp?

25 A. On 78 is January 30th, 2015, 5:01 p.m.

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1 Q. Okay. Now go back to Exhibit 79. What's
 2 the date and time stamp of that message?

3 A. January 30th, 2015, 5:12 p.m.

4 Q. So is it accurate to say that you sent the
 5 message in Exhibit 79 11 minutes after Mr. Quarry
 6 sent you the message in Exhibit 78?

7 A. That is correct.

8 Q. But you're saying that there was something
 9 else that you were responding to and not the message
 10 in Exhibit 78; is that correct?

11 A. I believe that this is a response to Nate
 12 personally on his page after a post he made on
 13 Facebook.

14 Q. And it wasn't a response to the message in
 15 Exhibit 78?

16 MR. DELL'ANGELO: Object to the form. Asked
 17 and answered.

18 THE WITNESS: I think we're -- there's
 19 perhaps a misconception that Mike Pierce was the
 20 first person I talked to. I'm not sure if that's
 21 the --

22 BY MR. WIDNELL:

23 Q. Well, it looked to me, looking at this, as
 24 if Exhibit 79 was a response to Exhibit 78, but I
 25 think you're saying that it wasn't?

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1 A. What I'm saying is that I had spoken with
 2 Nate and Mike and several fighters extensively over
 3 the years. And that the realization that the
 4 possibility we could have a lawsuit that would be
 5 class action and work and the ability to have a
 6 chance to win and change the way things are done is
 7 what sparked my interest to join the lawsuit. And my
 8 contact with Nate is in response to his post about
 9 the potential for a lawsuit.

10 Q. But it's nonresponsive to this specific
 11 message that's Exhibit 78; is that correct?

12 MR. DELL'ANGELO: Objection. Asked and
 13 answered.

14 THE WITNESS: Exhibit 78 is confirming my
 15 interest in joining the lawsuit. Pierce told me,
 16 "You're down to join the lawsuit." I had spoken
 17 about this already with Nate and Mike Pierce and
 18 different fighters and was willing to join the
 19 lawsuit.

20 BY MR. WIDNELL:

21 Q. So this is actually a response to some
 22 separate post that, I guess, we don't have on Nate's
 23 Facebook page. Is that accurate?

24 A. To my understanding, that is accurate.

25 Q. Okay. And you responded by saying, "I would

1 to my final fight in King of the Cage and was just
 2 waiting to finish my contract with them. I'm not
 3 sure at which point.

4 Q. But it was sometime before your final fight
 5 with King of the Cage?

6 A. I believe so.

7 Q. Did you decide to hire a new manager at that
 8 point?

9 A. I decided to hire a new manager after I
 10 suffered my first loss against Tony Lopez, which is
 11 my final fight in King of the Cage.

12 Q. And who was that manager?

13 A. The manager was Crazy Bob Cook and DeWayne
 14 Zinkin from Zinkin Entertainment.

15 Q. And how did you meet them?

16 A. I grew up in San Jose, California, and
 17 around that area and was familiar with American
 18 Kickboxing Academy and the level of fighters that
 19 they had.

20 When I was 17, a friend of mine and I
 21 decided to go train at American Kickboxing Academy
 22 briefly. We played football and wrestled together,
 23 but we didn't do a spring sport.

24 So to stay in shape and to learn new things
 25 that would be applicable to football and wrestling,

1 Q. So after your last fight in King of the
 2 Cage, did King of the Cage try and exercise its
 3 option for another year?

4 MR. DELL'ANGELO: Object to the form to the
 5 extent it calls for a legal conclusion.

6 THE WITNESS: I believe that King of the
 7 Cage tried to exercise the option for a second year
 8 because my manager at that time, I had a phone call
 9 with him and let him know that I would not be
 10 re-signing with them and that I was going to move to
 11 California to train at AKA and have a new management
 12 company represent me.

13 Obviously, that didn't sit well with him.
 14 And I believe they called Bob Cook at some point
 15 threatening that they still had me under contract and
 16 that they wouldn't allow me to work with someone
 17 else.

18 And if I recall correctly, DeWayne Zinkin
 19 had his lawyers look at their contract, and they
 20 determined that they did not have that right and that
 21 there was a conflict with having my manager who got
 22 me this contract be an employee of King of the Cage.
 23 BY MR. WIDNELL:

24 Q. Was there any litigation related to that?

25 A. They had threatened to take us to court and

1 we decided to take mixed martial arts with Frank
 2 Shamrock and Crazy Bob Cook at American Kickboxing
 3 Academy.

4 Q. Was your friend in -- did he also become an
 5 MMA fighter?

6 A. Yes. His name was Daniel Puder. And he
 7 fought for Strikeforce. And he ended up becoming a
 8 pro wrestler. He won the million-dollar Tough Enough
 9 for WWE.

10 Q. So when did you join AKA as an MMA fighter?

11 A. I joined AKA as an MMA fighter after my loss
 12 with Tony Lopez. I moved back to California, which
 13 is where I'm from. My family's there. And started
 14 training at American Kickboxing Academy.

15 Q. And it's that same time period that you also
 16 retained Bob Cook and DeWayne Zinkin?

17 A. That is correct.

18 Q. And did one of them handle most of your
 19 matters?

20 A. Crazy Bob Cook was the -- between the two of
 21 them, the person that I spoke with the most. DeWayne
 22 Zinkin had his offices in Fresno, California, which
 23 is a few hours away. And Bob trained and managed the
 24 guys and was at American Kickboxing Academy
 25 regularly.

1 have litigation, and that never came to fruition.

2 Q. Was there ever any other litigation between
 3 either King of the Cage and you or between you and
 4 your prior manager?

5 MR. DELL'ANGELO: Objection. Compound.

6 THE WITNESS: No, not to my knowledge, there
 7 was no litigation.

8 BY MR. WIDNELL:

9 Q. If you go back to Exhibit 81 and look at the
 10 second page, Item 7. Could you read that?

11 A. "If Kyle should become injured and cannot
 12 compete in scheduled fights, King of the Cage will
 13 have the option to extend the term of the contract so
 14 that Kyle may fulfill his time commitment."

15 Q. What's your understanding of what that term
 16 meant?

17 A. This term, I believe, is King of the Cage's
 18 ability to extend my contract during an injury.

19 Q. Did that provision ever come into play?

20 A. That provision --

21 MR. DELL'ANGELO: Object to form to the
 22 extent it calls for a legal conclusion.

23 BY MR. WIDNELL:

24 Q. Let me ask it slightly differently. Maybe
 25 it's easier. Were you ever injured during your time

1 fighting for King of the Cage?

2 A. I was not injured during my time fighting
3 for King of the Cage.

4 Q. So if I'm reading this correctly, it looks
5 like the next thing that happened was that you ended
6 up becoming a contestant on the Ultimate Fighter; is
7 that correct?

8 A. That is correct.

9 Q. Can you tell me how that came to pass?

10 A. After training at American Kickboxing
11 Academy, I had fought as a heavyweight in all my
12 previous matches. And a couple of my teammates,
13 Bobby Southworth, who had fought as a heavyweight
14 prior and was the current light heavyweight for
15 Strikeforce, they mentioned that they think I should
16 try to drop the weight. Instead of trying to gain
17 weight, I should try to lean out as much as I can and
18 be a bigger fighter at the 205 weight class. And I
19 took that into consideration but still liked not
20 having to cut weight.

21 But it was when Bob Cook mentioned to me
22 there was an opportunity to be on the Ultimate
23 Fighter Season 8, which had split between
24 lightweights 155 class and light heavyweights 205
25 class.

1 And then if I was able to drop my weight
2 that I could potentially be on that show. And that
3 that could get my foot in the door for fighting at
4 the highest level in the UFC.

5 Q. So you agreed to apply; is that right?

6 A. Yeah. Bob Cook and I sent in a video to
7 them. They had already -- Bob had a history working
8 with the UFC. Obviously, they already had fighters
9 on our team that were in the UFC. But they also had
10 fighters that had gone through the Ultimate Fighter
11 as a pathway to make it into the UFC.

12 Q. You say "as a pathway to make it into the
13 UFC." Were you focused at that point on trying to
14 become a UFC fighter?

15 A. I think the goal of every fighter is to
16 fight at the highest level and to become champion one
17 day. And if you're trying to fight, it doesn't
18 matter if you're the champion, you know, big fish in
19 a small pond. You could be the best of a small
20 community. But really to test yourself and to know
21 that you're the best in the world, that takes
22 becoming champion of the UFC.

23 Q. At the time, did you think it was
24 competitive to get a spot on the Ultimate Fighter?

25 MR. DELL'ANGELO: Objection to the form.

1 BY MR. WIDNELL:

2 Q. Let me ask this a little differently. Did
3 you feel like you had to compete with a lot of other
4 people to get that spot on the Ultimate Fighter?

5 A. In my opinion, the Ultimate Fighter by
6 Season 8 time was wildly successful in that a lot of
7 people watched the show. You had to have certain
8 credentials. You had to have displayed yourself in a
9 manner that showed that you had real talent or at
10 least the possibility of growing into that talent.

11 And so they had to see something in you in
12 order to bring you on that show. And it was hard --
13 it was quite competitive to get on the show.

14 Q. So you'd say there were a lot of other
15 fighters who wanted to have the spot that you got; is
16 that accurate?

17 MR. DELL'ANGELO: Object to the form.

18 THE WITNESS: I think that's a fair
19 statement.

20 BY MR. WIDNELL:

21 Q. Now, Mr. Fitch in his deposition -- I can't
22 recall if this was in the morning and you would have
23 heard it or not. But at some point during his
24 deposition, he said that he thought that at the time
25 that he applied, the people who made it onto the

1 Ultimate Fighter were all elite fighters.

2 But I think he said that later seasons that
3 may not have been the case. Do you agree with that
4 statement?

5 MR. DELL'ANGELO: Object to the form to the
6 extent it calls for a legal conclusion and
7 mischaracterizes the prior witness' testimony. You
8 can answer.

9 THE WITNESS: I think if I understand that
10 question correctly, Jon was stating that on the
11 Ultimate Fighter Season 1, because it was the first
12 one, there was a wealth of talent on that season and
13 that a lot of the fighters who fought on Ultimate
14 Fighter Season 1 eventually went on to have careers
15 in the UFC.

16 That wasn't the case for every Ultimate
17 Fighter. There's been various seasons where only a
18 couple guys or women were kept after the show had
19 ended as opposed to the majority of them from
20 Ultimate Fighter Season 1.

21 On the Ultimate Fighter Season 8, we were
22 really a standout at that point because quite a few
23 of the fighters were kept from Ultimate Fighter
24 Season 8, which hadn't been the case in between
25 Season 1 and Season 8.

<p style="text-align: right;">Page 54</p> <p>1 BY MR. WIDNELL:</p> <p>2 Q. So would you say that all of the contestants</p> <p>3 for Season 8 were elite fighters?</p> <p>4 MR. DELL'ANGELO: Objection to the form to the</p> <p>5 extent it calls for a legal conclusion.</p> <p>6 THE WITNESS: I'm not saying that at all.</p> <p>7 In fact, one of the ways that they would orchestrate</p> <p>8 the show is they would bring on some really talented</p> <p>9 fighters, and they would bring on some guys who had</p> <p>10 bare minimal experience, sometimes with no fights or</p> <p>11 a 1-and-0 record or a 1-and-1 record.</p> <p>12 And it is my understanding that they wanted</p> <p>13 that dynamic for the people who made it into the</p> <p>14 house so that they would still have exciting fights,</p> <p>15 meaning "exciting" they would still see big knockouts</p> <p>16 and things like that as opposed to every fight going</p> <p>17 to a decision.</p> <p>18 So when you compete at the highest level,</p> <p>19 it's not always guaranteed that you'll have a</p> <p>20 knockout or an exciting fight for the fans. I think</p> <p>21 Jon Fitch has demonstrated that throughout his career</p> <p>22 and was punished for it, winning a lot by decision</p> <p>23 and not fighting the way the UFC would have wanted</p> <p>24 him to. Dana White specifically.</p> <p>25 So Ultimate Fighter Season 8 did have quite</p>	<p style="text-align: right;">Page 56</p> <p>1 sound like some are and some aren't.</p> <p>2 If you were going to try and identify or</p> <p>3 come up with an easy explanation for which are the</p> <p>4 most likely elite fighters of the season, how would</p> <p>5 you do that?</p> <p>6 MR. DELL'ANGELO: Objection to the form to</p> <p>7 the extent it calls for a legal conclusion and</p> <p>8 speculation.</p> <p>9 THE WITNESS: In my opinion, I think the</p> <p>10 guys who were kept under contract -- or were given a</p> <p>11 contract to fight in the UFC after the Ultimate</p> <p>12 Fighter 8 had finished defined them as elite. They</p> <p>13 had made it to the highest level if they were</p> <p>14 fighting against the best guys, and they had made it</p> <p>15 to the highest level of the sport.</p> <p>16 BY MR. WIDNELL:</p> <p>17 Q. So if you got a contract at the end, that</p> <p>18 really is the best indicator that you actually are an</p> <p>19 elite fighter among the members of the Ultimate</p> <p>20 Fighter season; is that accurate?</p> <p>21 MR. DELL'ANGELO: Objection to the form to</p> <p>22 the extent it calls for a legal conclusion.</p> <p>23 THE WITNESS: In my opinion, I believe there</p> <p>24 are a number of factors that would go into making</p> <p>25 somebody an elite fighter. But probably the most</p>
<p style="text-align: right;">Page 55</p> <p>1 a wide-ranging gap of fighters who were extremely</p> <p>2 talented and had great records and fighters that had</p> <p>3 minimal experience.</p> <p>4 BY MR. WIDNELL:</p> <p>5 Q. Were you an elite fighter at the point that</p> <p>6 you were participating in Season 8?</p> <p>7 MR. DELL'ANGELO: Objection to the form.</p> <p>8 Calls for a legal conclusion.</p> <p>9 THE WITNESS: I believed in myself and my</p> <p>10 chances of winning the Ultimate Fighter Season 8. I</p> <p>11 did not believe I was an elite fighter until I've</p> <p>12 made it into the UFC.</p> <p>13 BY MR. WIDNELL:</p> <p>14 Q. Would you say that only the contestants on</p> <p>15 the Ultimate Fighter who ultimately made it into the</p> <p>16 UFC were elite fighters?</p> <p>17 MR. DELL'ANGELO: Objection to the form to</p> <p>18 the extent it calls for a legal conclusion.</p> <p>19 THE WITNESS: I would say that if you've</p> <p>20 made it into the UFC, you could consider yourself an</p> <p>21 elite-level fighter, in my opinion.</p> <p>22 BY MR. WIDNELL:</p> <p>23 Q. Okay. But what I'm really trying to figure</p> <p>24 out is if you're selected for the Ultimate Fighter,</p> <p>25 does that also mean you're an elite fighter? And it</p>	<p style="text-align: right;">Page 57</p> <p>1 important, in my opinion, would be to fight in the</p> <p>2 UFC.</p> <p>3 BY MR. WIDNELL:</p> <p>4 Q. Can you be an elite fighter if you don't</p> <p>5 fight in the UFC?</p> <p>6 MR. DELL'ANGELO: Objection to the form to</p> <p>7 the extent it calls for a legal conclusion.</p> <p>8 THE WITNESS: I think there have been some</p> <p>9 cases in the past where there were elite-level</p> <p>10 fighters who did not fight in the UFC.</p> <p>11 BY MR. WIDNELL:</p> <p>12 Q. Okay. Thanks. Could you just tell me how</p> <p>13 it comes to pass that if you are a contestant on the</p> <p>14 Ultimate Fighter, whether or not you ultimately</p> <p>15 become a fighter in the UFC? Do you know how that</p> <p>16 process works?</p> <p>17 MR. DELL'ANGELO: Objection to the form.</p> <p>18 Foundation. Calls for speculation.</p> <p>19 THE WITNESS: I don't know for sure what the</p> <p>20 criteria is to make it into the UFC or why they pick</p> <p>21 the certain people that they do.</p> <p>22 But in my opinion, you would have to have</p> <p>23 some form of notoriety. You would have to be</p> <p>24 somebody who's marketable and likable or at least</p> <p>25 have the potential for that.</p>

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<p>1 THE WITNESS: Yeah. If I have a one-year 2 contract that starts on the first fight in the UFC, 3 that would have been December 13th, 2008, to 4 December 13th, 2009. And this extension would extend 5 it until August 13th, 2010.</p> <p>6 BY MR. WIDNELL:</p> <p>7 Q. Okay. So how long would it have extended 8 the contract?</p> <p>9 MR. DELL'ANGELO: Objection to the form to 10 the extent it calls for a legal conclusion.</p> <p>11 THE WITNESS: I can do the math. But it 12 looks like an extra year and nine months or an extra 13 year and eight months.</p> <p>14 BY MR. WIDNELL:</p> <p>15 Q. From December of 2009 to --</p> <p>16 A. Oh, not an extra.</p> <p>17 Q. -- August of 2010?</p> <p>18 A. The total would be one year and eight months 19 or one year and nine months. So an extra eight or 20 nine months.</p> <p>21 Q. So let me give you the two dates. So we 22 said it was December of 2009, was what your initial 23 termination date was. And according to this, it's 24 now August of 2010. So how long was it extended?</p> <p>25 MR. DELL'ANGELO: Objection to the form to</p>	<p>1 Now, without giving me an opinion about whether or 2 not this is, in fact, an extension that you 3 requested, how long is the extension that's described 4 for Kyle Kingsbury in Exhibit 83?</p> <p>5 MR. DELL'ANGELO: Objection to the form.</p> <p>6 THE WITNESS: It says six months.</p> <p>7 BY MR. WIDNELL:</p> <p>8 Q. Okay. And if you go to Exhibit 84. How 9 long is the extension that's described in Exhibit 84?</p> <p>10 A. An additional two months.</p> <p>11 Q. So if there were two extensions, would that 12 be eight months?</p> <p>13 MR. DELL'ANGELO: Objection to the form.</p> <p>14 THE WITNESS: It could be eight months.</p> <p>15 BY MR. WIDNELL:</p> <p>16 Q. And then just going back to Exhibit 85. If 17 you look at the language that I believe you had read 18 previously where it says "is being sent to you as a 19 result of your decision to wait to compete in 20 professional mixed martial arts bouts."</p> <p>21 Would you say that at least for the 22 additional two months, that was based off of a 23 decision that you made?</p> <p>24 MR. DELL'ANGELO: Objection to the form.</p> <p>25 THE WITNESS: It is possible that it was a</p>
Page 91	Page 93
<p>1 the extent it calls for a legal conclusion.</p> <p>2 THE WITNESS: It appears that it would be a 3 nine-month extension.</p> <p>4 BY MR. WIDNELL:</p> <p>5 Q. Nine or ten months, depending on exactly how 6 you counted -- or nine or eight months -- I'm 7 sorry -- depending on exactly how long you counted.</p> <p>8 Do you see where it says, "This notice of 9 extension of the term of your exclusive promotional 10 and ancillary rights agreement is being sent as a 11 result of your decision to wait to compete in 12 professional mixed martial arts bouts for an 13 additional two months"?</p> <p>14 A. I see where it reads that, yes.</p> <p>15 Q. I think we just established that the term of 16 the contract had been extended for more than two 17 months. Does that sound right to you?</p> <p>18 MR. DELL'ANGELO: Objection to the form.</p> <p>19 Mischaracterizes his testimony. Calls for a legal 20 conclusion.</p> <p>21 THE WITNESS: I believe it was clearly 22 longer than two months because there were eight to 23 nine months in addition.</p> <p>24 BY MR. WIDNELL:</p> <p>25 Q. Okay. And if we go back to Exhibit 83.</p>	<p>1 decision that I had made.</p> <p>2 BY MR. WIDNELL:</p> <p>3 Q. So is it possible that you had made the 4 decision to train for an additional eight months 5 before you got into another bout?</p> <p>6 A. It is possible I was injured. It was 7 possible -- there's a number of things that could 8 have occurred.</p> <p>9 Q. Do you believe that that eight-month 10 extension was unfair?</p> <p>11 MR. DELL'ANGELO: Objection to the form.</p> <p>12 THE WITNESS: In my opinion, if we had asked 13 for time off for various reasons, that would not have 14 been unfair.</p> <p>15 (Whereupon Defendant's Exhibit 86 16 was marked for identification.)</p> <p>17 BY MR. WIDNELL:</p> <p>18 Q. I've just handed you what's marked Exhibit 19 86.</p> <p>20 MR. DELL'ANGELO: Excuse me, Counsel. Do 21 you have copies for us?</p> <p>22 MR. WIDNELL: Yes, sorry.</p> <p>23 BY MR. WIDNELL:</p> <p>24 Q. Exhibit 86 is a document marked ZE 001174.</p> <p>25 It is an email from Bob Cook to Mr. Silva and then a</p>

<p style="text-align: right;">Page 94</p> <p>1 reply from Mr. Silva to Mr. Cook. Does this document 2 look at all familiar to you?</p> <p>3 A. I'm not sure if I'm seeing this for the 4 first time or not.</p> <p>5 Q. Could you read what the email from Mr. Cook 6 to Mr. Silva says? It starts with "Don't rush."</p> <p>7 A. "Don't rush to put Kyle back in. I'd like 8 to have another six months to get him better if 9 that's okay.</p> <p>10 Q. And then could you read Mr. Silva's reply?</p> <p>11 A. "Okay. He definitely needs more work."</p> <p>12 Q. What's the date of this email?</p> <p>13 MR. DELL'ANGELO: Objection to the form.</p> <p>14 THE WITNESS: Thursday, October 29th, 2009.</p> <p>15 BY MR. WIDNELL:</p> <p>16 Q. Had you fought between the extension that's 17 described in Exhibit 85 and between the time that 18 extension was sent out on October 29, 2009.</p> <p>19 A. Yes. I fought October 24th, 2009, against 20 Razak Al-Hassan.</p> <p>21 Q. And when you fought against Razak Al-Hassan, 22 is that the fight that you were describing where you 23 felt that you had to fight?</p> <p>24 A. Yes.</p> <p>25 Q. So it looks like you had had an extension to</p>	<p style="text-align: right;">Page 96</p> <p>1 UFC, would you have had other options for places you 2 could have fought?</p> <p>3 MR. DELL'ANGELO: Objection to the form.</p> <p>4 THE WITNESS: To my understanding, in 5 October 2009 Strikeforce was another organization 6 that was still running. Is that correct?</p> <p>7 BY MR. WIDNELL:</p> <p>8 Q. I can't answer questions. I'm sorry. This 9 is an instance where I need to ask you questions. 10 You can answer to the best of your ability, but I 11 can't answer your questions.</p> <p>12 A. I believe Strikeforce was still around at 13 that time, in 2009. And they were a rising company 14 not on the level of the UFC, but were heading in that 15 direction. So there would have been that 16 possibility.</p> <p>17 But that would have eliminated any chances 18 of becoming UFC champion and winning at the highest 19 level among the best fighters in the world.</p> <p>20 Q. So in your opinion, was Strikeforce not at 21 the same level as the UFC?</p> <p>22 MR. DELL'ANGELO: Objection to the form.</p> <p>23 THE WITNESS: I believe when Strikeforce was 24 acquired by the UFC, they were becoming close to that 25 level, and they had certain fighters that were</p>
<p style="text-align: right;">Page 95</p> <p>1 the term of your contract prior to that of about 2 eight months. Does that sound right?</p> <p>3 A. That sounds correct.</p> <p>4 Q. Okay. And you were concerned about fighting 5 Razak Al-Hassan because you were injured at the time; 6 is that correct?</p> <p>7 A. That is correct. I had separated my rib.</p> <p>8 Q. Were you told that you had to fight Razak 9 Al-Hassan?</p> <p>10 MR. DELL'ANGELO: Objection to the form.</p> <p>11 THE WITNESS: What I had seen with other 12 fighters and seeing the way they were treated, you 13 didn't argue with the guy that was put in front of 14 you. You didn't try to pick your opponents or say 15 you didn't like to fight somebody. You said yes when 16 they asked, and you fought on the date.</p> <p>17 Dana White has said many times, including in 18 front of the media, that all guys fight hurt. 19 Everyone comes to the fight with injuries. You 20 better show up on fight day. It doesn't matter if 21 you're hurt. Everybody's hurt.</p> <p>22 And not wanting to be cut from the UFC and 23 not have a job, I felt obligated to fight hurt.</p> <p>24 BY MR. WIDNELL:</p> <p>25 Q. At that time if you had been cut from the</p>	<p style="text-align: right;">Page 97</p> <p>1 definitely on par with UFC-level fighters. A lot of 2 the Strikeforce fighters that came over to the UFC 3 after the purchase and acquisition ended up doing 4 very well. Tyron Woodley is the current welterweight 5 champion of the world. He was from Strikeforce. My 6 teammate Luke Rockhold became the middleweight 7 champion in the UFC. He was a champion in 8 Strikeforce.</p> <p>9 So there was a number of talented fighters 10 there. And it was a good organization on the rise, 11 but it was not on the level of the UFC at that time.</p> <p>12 BY MR. WIDNELL:</p> <p>13 Q. As of October of 2009?</p> <p>14 A. That is correct.</p> <p>15 Q. Is that because Strikeforce didn't have the 16 same caliber of fighters that the UFC had?</p> <p>17 MR. DELL'ANGELO: Objection to the form.</p> <p>18 THE WITNESS: Strikeforce had some fighters 19 that were of UFC caliber. The UFC was able to keep a 20 lot of their fighters through exclusive contracts and 21 keep them for longer periods of time and by different 22 clauses in the contracts, the ability to match for 60 23 to 90 days -- exclusive negotiation for 60 to 90 days 24 and the ability to match for up to one year in the 25 champions clause. It was very hard for fighters to</p>

1 get out of their contract unless they were no longer
 2 wanted and the UFC could cut them.

3 BY MR. WIDNELL:

4 Q. I think you said, though, that at the time
 5 that the UFC acquired Strikeforce, at that time
 6 Strikeforce was competitive to the UFC; is that
 7 accurate?

8 A. What I said was that Strikeforce was on the
 9 rise as a competitor, but they were still not on the
 10 level of the UFC. In that they had fighters that
 11 were -- some of the fighters were on the level of UFC
 12 fighters. And that was proven after the acquisition
 13 and acquiring of those fighters and seeing their
 14 success in the UFC.

15 Q. So are you saying that at the time the UFC
 16 acquired Strikeforce, you still would not have
 17 regarded Strikeforce as being a reasonable
 18 alternative to the UFC as a place to fight?

19 MR. DELL'ANGELO: Objection to the form.

20 THE WITNESS: It might have been a
 21 reasonable alternative, but there was no way of
 22 getting out of the contract to go over to
 23 Strikeforce.

24 UFC did a very good job of making sure that
 25 fighters stayed with them if they were worthwhile and

1 BY MR. WIDNELL:

2 Q. Okay. So after the Razak Al-Hassan fight,
 3 which was on October 24, 2009, it looks like Mr. Cook
 4 sent Mr. Silva a letter five days later asking for
 5 another six-month extension. Does that sound right
 6 to you based on our discussion of Exhibit 86?

7 MR. DELL'ANGELO: Objection to the form.

8 Characterization of the document.

9 THE WITNESS: It appears to be correct with
 10 Exhibit 86 in front of me.

11 BY MR. WIDNELL:

12 Q. So if you add another six months to the
 13 August 2010 expiration of the contract, what would
 14 the expiration date be, then?

15 MR. DELL'ANGELO: Object to the form to the
 16 extent it calls for a legal conclusion.

17 Mischaracterizes the operative contract.

18 THE WITNESS: So what would be six months
 19 after August 2010?

20 BY MR. WIDNELL:

21 Q. Yup.

22 A. February of 2011.

23 Q. When was your next fight?

24 MR. DELL'ANGELO: Objection to the form.

25 THE WITNESS: After Razak Al-Hassan?

1 had notoriety. And it was very hard, if not
 2 impossible, to shop around and try to get to other
 3 competitors.

4 BY MR. WIDNELL:

5 Q. Okay. Going back to the fight with Razak
 6 Al-Hassan, though, I think you said that you had
 7 fought him because if you were cut, there would have
 8 been no other place for you to fight; is that
 9 accurate?

10 A. On the level of the UFC, that is a correct
 11 statement.

12 Q. Okay. If you had been cut at the time or
 13 just before UFC acquired Strikeforce, would you have
 14 regarded Strikeforce as a reasonable option?

15 MR. DELL'ANGELO: Objection to the form.

16 THE WITNESS: I think that at the time
 17 Strikeforce was acquired, a lot of my teammates that
 18 were fighting with Strikeforce spoke very favorably
 19 about the way they were treated in respect to -- or
 20 in comparison to the way that we were treated in the
 21 UFC.

22 I don't know. It never happened. I never
 23 had that option to leave, and I would be speculating
 24 or guessing.

25 ///

1 BY MR. WIDNELL:

2 Q. Yup.

3 A. September 15th, 2010, against Jared Hamman.

4 Q. Do you know how much you were paid for that
 5 fight?

6 A. I believe I was paid \$8,000 and \$8,000.
 7 \$8,000 to show and \$8,000 to win. And that was my
 8 first fight of the night, which was \$40,000, I
 9 believe.

10 Q. So I believe you were actually paid \$10,000
 11 and \$10,000. Or is it possible that you're mistaken
 12 about the amount?

13 A. It is possible I was paid \$10,000 and
 14 \$10,000.

15 Q. If you were paid \$10,000 and \$10,000, would
 16 you have been into the next option of your contract?

17 MR. DELL'ANGELO: Objection to the form.
 18 Calls for a legal conclusion.

19 THE WITNESS: It would make sense if I was
 20 paid \$10,000 and \$10,000, that I would be in the
 21 second year of the option.

22 BY MR. WIDNELL:

23 Q. So I think we established that with that
 24 additional six-month extension, you would have
 25 been -- the contract would have ended in February of

1 I had. I didn't want them to say, Screw you. You're
 2 on your own. You're just retired, or you talked bad
 3 about us and, no, we're not going to take care of you
 4 anymore, in that respect concerning my medical bills.

5 At this point in my career, I was pretty
 6 upset by the matchmaking, being forced to take
 7 certain fights, and I wasn't happy. But I didn't
 8 want to speak badly about the UFC at that time
 9 because I was still under contract and because I
 10 wanted them to take care of my medical bills.

11 Q. And were they taking care of your medical
 12 bills?

13 A. They took care of my medical bills for the
 14 fights. And they had injury insurance, which I paid
 15 a \$1500 deductible [REDACTED].

16 Q. [REDACTED]. Was that covered by --

17 A. That was covered by Zuffa. That happened in
 18 a fight, yes. They covered everything that happened
 19 in fights.

20 Q. But you did say, "I'm leaning toward not
 21 doing it again"; is that right?

22 A. I was leaning towards not doing it again,
 23 but I wanted to leave the door open in case I got
 24 that itch again. And, again, I restate here, "I

1 could wake up a month or two from now and be as
 2 hungry as I've ever been and think I shouldn't have
 3 opened my mouth a month ago," referring to speaking
 4 the truth about what was going on in the UFC with
 5 buyouts, exclusive contracts and threats exclusive
 6 contracts that had been made to me among other
 7 fighters. And that would pretty much be the end of
 8 my career if I had done so. So I said there's no
 9 finite decision.

10 Q. So at this time, had you made comments about
 11 those concerns publicly?

12 A. I had not made public -- not to my knowledge
 13 at that time had I made any public statements in
 14 terms of my dissatisfaction with the UFC. I had seen
 15 firsthand with teammates Jon Fitch and Josh Koscheck
 16 what that had done to their careers, and I did not
 17 want to go that route if I was going to continue to
 18 fight for them.

19 Q. Okay. Were you under the impression that
 20 UFC was punishing you at that time?

21 A. Yes. In fact, there were articles written
 22 that -- one article stated, "I don't know what
 23 Kingsbury has done to piss off Joe Silva, but it is
 24 clear and obvious." Or "Kingsbury gets thrown to the
 25 wolves. What did he do to piss Jon Silva off?"

1 Q. And how is it clear and obvious that you
 2 were being punished?

3 A. Well, if you go through my fight history,
 4 you can see right before my four-fight losing streak,
 5 I was on a four-fight winning streak with two fight
 6 of the nights and a 21-second knockout.

7 A lot of that competition was not well
 8 known. And after I received my [REDACTED]
 9 in the fight of the night victory against Fabio
 10 Maldonado, I spoke with my coaches and management.
 11 And we realized that the competition in the UFC at
 12 the highest level is so tough that you can be hurt
 13 and have to take time off for who knows how long.
 14 And that it was a detriment to fight people that were
 15 that good but not well known.

16 So we had asked Joe Silva after the Fabio
 17 Maldonado fight. I remember specifically walking on
 18 eggshells in the statement. And I said, "I'm very
 19 grateful with the matchups that you have given me in
 20 the past. And I'm happy fighting the guys you put in
 21 front of me. But I would like to fight a bigger
 22 named opponent in my next fight because the level of
 23 competition is so high that if I lose to an unnamed
 24 guy, it would hurt me. As opposed to if I was to
 25 fight a big name opponent, at least people would know

1 who that person is if I was to lose. And you could
 2 lose any fight. It could happen on any day. So I
 3 just wanted to fight named opponents.

4 And in the very next fight they put me [REDACTED]
 5 against Stephan Bonnar. Not an opponent I would have
 6 wanted. But because we had asked for a named
 7 opponent, I took the fight anyways.

8 At that time I was a blue belt in Jiu-Jitsu.
 9 Stephan Bonnar was a black belt. So there was a huge
 10 discrepancy and one of his weaknesses. And the fight
 11 went his direction because of that.

12 I wasn't too upset at that point. It's
 13 really the fights that came after that that really
 14 made me believe that I was being punished. Glover
 15 Teixeira I knew very well. I had trained with his
 16 coaches and teammates, Chuck Liddell and Coach John
 17 Hackleman down at The Pit.

18 Glover Teixeira was a close friend and
 19 training partner of Chuck Liddell's. Over the years
 20 they said he could be champ. He was one of the best
 21 in the world. And Joe Silva wanted me to fight him
 22 on the undercard in Glover's first fight in the UFC.

23 And that is exactly the kind of thing that [REDACTED]
 24 hurts fighters. Nobody knew who he was. He was
 25 extremely talented. It was a lose-lose. If I beat

1 him, I'm supposed to beat him. If I don't beat him,
 2 I just got my ass kicked by a guy that nobody knows.

3 On top of that, being put on the undercard,
 4 there was a great deal less in sponsorship money
 5 because I wasn't guaranteed to be on TV.

6 They also rushed me to the cage in that
 7 fight without playing my entrance music. It was the
 8 only fight they did this. Yet they allowed Glover to
 9 walk out with his entrance music. They said it was a
 10 TV time thing.

11 Yet they didn't account for the 30 seconds
 12 it would take for me to walk to the cage. So UFC
 13 personnel was screaming at me to run to the cage in
 14 an effort to rattle me.

15 After that fight against Jimi Manuwa, I had
 16 another unknown opponent in his first fight in the
 17 UFC. I had to fly all the way to England for it. It
 18 was on the undercard, and it was against a guy who at
 19 the time was 11 and 0, no losses, and not a single
 20 opponent had made it out of the first round with him.
 21 So he was highly decorated and not known. Again, as
 22 stated, a lose-lose for me.

23 And then I had received the damage that I
 24 did in that fight. [REDACTED]

1 [REDACTED] as well and was
 2 just considering is it worth it? I can't get out of
 3 my contract. There's nowhere else to go at this
 4 point. Strikeforce didn't exist anymore. Pride
 5 didn't exist anymore. And I had no way of saying no.

6 When I got the fight with Glover Teixeira,
 7 that was the only time that I had asked to not fight
 8 a certain fighter because I knew how good he was and
 9 I knew that he was an unknown.

10 And I spoke to Joe Silva face-to-face in
 11 Tokyo, Japan, at one of the events. He had overheard
 12 me complaining to one of the fans about my next
 13 opponent. He said, "Kyle, what's the problem?"

14 And I said, "Joe, I'm glad you're here. The
 15 problem is that nobody knows who Glover is, and he
 16 could easily be the UFC champ. He could be the
 17 champion of our division. I know how good he is.
 18 I've trained with his coaches. The coaches know me
 19 well. They know my style. And I would be happy
 20 taking on anyone else."

21 And then he said to me the usual tag line,
 22 "You've got to take the fight with Glover. If you
 23 don't like this fight, you're not going to like the
 24 next one."

25 And I said, "I would take on Jon Jones or

1 Shogun Rua, legends of the sport, before I'd want to
 2 take on Glover Teixeira because at least people knew
 3 who they were. And he told me, "You've got to take
 4 the fight anyways."

5 Q. Who do you think should have fought Glover
 6 Teixeira?

7 A. It would be speculation on my part to say
 8 who should have fought Glover Teixeira. But if it's
 9 an entry level fight in the UFC, he should have
 10 fought somebody else that maybe had one fight in the
 11 UFC.

12 Yeah, in my opinion, he should have fought
 13 somebody else that was new to the UFC. Because even
 14 when they offered him to fight Shogun Rua after
 15 beating me, Shogun turned down that fight. And as a
 16 former champion, he had a little bit more power than
 17 I did.

18 And Dana White went on to barbecue Shogun
 19 Rua saying that he was a pussy for not wanting to
 20 take the fight and that he was going to take the
 21 fight anyways, belittling Shogun and taking away from
 22 his notoriety.

23 Q. If you turn to the second page of
 24 Exhibit 88. Do you see the sentence, "They haven't
 25 cut me, and I'm very grateful for that," he said.

1 If I decide to stick around, it will be in the
 2 UFC"?

3 A. Yes, I see that statement.

4 Q. Did you say that?

5 A. I did say that statement.

6 Q. Okay. If you'd turn to the third page. Do
 7 you see the sentence that says, "I made the decision
 8 to go to MMA for as long as it may last and go back
 9 after to being a fireman again"?

10 A. Yeah, I see that statement.

11 Q. Did you make that statement?

12 A. I did make that statement.

13 Q. What did you mean by that?

14 A. When I first got the contract to fight in
 15 King of the Cage, I was living in Arizona. And I had
 16 a friend who was a firefighter/paramedic for Phoenix
 17 Fire. He was putting me through the process to
 18 become a firefighter in Arizona. I thought of that
 19 as a great career.

20 And basically at the time, I had passed my
 21 first interview with Phoenix Fire and was waiting to
 22 do -- I was prepping for my second interview to get
 23 in. And we got the contract to fight in King of the
 24 Cage. And my friend told me, "Hey, fighting doesn't
 25 last long. Fire fighting will always be here. You

1 should fight. See how far you can take it. And when
 2 you're done, you can always come back to fire
 3 fighting."

4 Q. At this point in time, how much money had
 5 you made in the last year from fights?

6 A. In the last year from Jimi Manuwa, Glover
 7 Teixeira and Stephan Bonnar?

8 Q. The date of this article is November 2012.
 9 So going back a year from that.

10 A. So November 2011 I fought Bonnar. 12 grand
 11 for Bonnar plus a \$3,000 bonus. 12 grand for Glover
 12 Teixeira. And I think I got 12 grand with a \$12,000
 13 bonus to Jimi Manuwa since they stopped the fight for
 14 doctor stoppage. \$51,000 in my estimate.

15 Q. How much would you have made as a fireman at
 16 that point?

17 MR. DELL'ANGELO: Objection. Calls for
 18 speculation.

19 THE WITNESS: I'm not sure what the
 20 firefighters make in Phoenix. I know firefighters in
 21 California make six figures a year. In Sunnyvale,
 22 the town that I live currently, they start at
 23 \$120,000 a year with full medical and dental for
 24 their entire family, retirement benefits. And they
 25 are able to go to other fire departments, which we

1 are not able to go to other fighting organizations.
 2 BY MR. WIDNELL:

3 Q. It says in the next paragraph, "I've got
 4 some soul searching to do to see where I'm at
 5 mentally, emotionally and spiritually. I've got to
 6 digest the whole situation, the career, to see if
 7 it's something I want to continue to do. Thankfully
 8 I've got a six-month medical suspension to figure it
 9 out. It's not something I have to decide right off
 10 the bat." Did you make that statement?

11 A. I made that statement.

12 Q. Were you thankful at the time that you had
 13 gotten that six-month suspension?

14 A. Yeah. [REDACTED]. I needed
 15 that. I couldn't fight within that six-month period.
 16 [REDACTED]

17 [REDACTED]
 18 [REDACTED].
 19 And I did want time to decide if weighing
 20 out all the things that the UFC has done, weighing
 21 out the fact that there were no other options to go
 22 to, and the fact that I would likely be fighting for
 23 them forever, is it worth it or not?

24 So I had a tough decision to make, and I

1 needed time to make that decision along with the
 2 healing process.

3 Q. And ultimately weighing the decision between
 4 becoming a fireman and going back to fight, did you
 5 go back to fight?

6 A. I did go back to fight. I fought Patrick
 7 Cummins in my final fight in the UFC.

8 Q. And is it fair to say that you probably
 9 earned less money going back to fight than you would
 10 if you had gone to be a fireman?

11 MR. DELL'ANGELO: Objection to the form.

12 THE WITNESS: It depends on where I was
 13 working as a firefighter. But I was making less
 14 money, in my opinion, than fire fighting places I
 15 would have wanted to.

16 BY MR. WIDNELL:

17 Q. Okay. And if you look a little bit further
 18 down, it says -- this is another quote. I believe
 19 it's attributed to you. "People don't get into the
 20 sport to become a millionaire. You get into the UFC
 21 because you're trying to beat someone's ass. I'm 4-4
 22 in the UFC. It was never my goal to be a .500
 23 firefighter. Whatever I end up choosing, if I do end
 24 up wanting to fight again, there will be a period of
 25 time of working to improve before I can come back."

1 Did you say that?

2 A. Well, I did say that.

3 Q. Do you agree with that statement today?

4 A. I do agree with that statement. It is clear
 5 that when you get into fighting, it's because you
 6 love fighting. And the reason may be to beat
 7 someone's ass. It may be to -- you know, my reason
 8 changed over time. When I first got into fighting,
 9 it's because I genuinely wanted to hurt and fight. I
 10 genuinely wanted to hurt other people.

11 As I grew as a person and established a
 12 meditation practice and reading and understanding
 13 things differently spiritually and emotionally, I no
 14 longer had that itch to hurt somebody. But I wanted
 15 to test myself at the highest level. And I wanted to
 16 push myself and put myself in a position to really
 17 test myself.

18 Q. Do you think that that's something that
 19 you're unique in terms of how you felt about
 20 fighting? Do you think others were really just doing
 21 it for the money?

22 MR. DELL'ANGELO: Objection to form. Calls
 23 for speculation.

24 THE WITNESS: In my opinion, nobody gets
 25 into fighting just for the money. There are plenty

1 A. I didn't feel that there was any other
 2 option to fight at an elite level. And as I stated
 3 here in my email -- we can leave the answer at that.

4 Q. So I think that you also said that at some
 5 point before Zuffa acquired Strikeforce, Strikeforce
 6 actually was potentially a promotion you would have
 7 considered going to; is that right?

8 MR. DELL'ANGELO: Objection to the form.

9 THE WITNESS: I stated that around the time
 10 of Strikeforce's acquisition, that they had become an
 11 organization that would be worth considering. There
 12 was nothing to consider, though, due to the nature of
 13 our contracts.

14 BY MR. WIDNELL:

15 Q. But you were concerned about being cut, and
 16 you made the decision to fight injured in 2009
 17 because you didn't feel that Strikeforce was an
 18 option at that time; is that right?

19 A. Strikeforce was not an option to fight at an
 20 elite level at that time.

21 Q. So what changed between 2009 and when UFC
 22 acquired Strikeforce that made it potentially an
 23 option?

24 A. In my opinion, Strikeforce had continued to
 25 improve their show. They had a lot of fighters that

1 he played for the New York Giants -- was there. We
 2 were in Baghdad in Iraq in Saddam's palace. And he
 3 was talking about the steps they had taken to make
 4 their NFL Players Association a strong organization
 5 to get what was fair in the NFL.

6 And we had spoken about what they had gone
 7 through in 2007. That they had fought for 55 percent
 8 of the revenue. And I remember laughing at the fact
 9 that it was estimated we were being paid under 15
 10 percent and to hear these guys were battling for 55
 11 percent, and the judges awarded that to them.

12 Q. Do you know why the judges awarded that to
 13 them?

14 MR. DELL'ANGELO: Objection to the form.

15 THE WITNESS: I'm not entirely sure of the
 16 logistics of their case. I don't know exactly what
 17 happened. I followed it loosely but not closely.

18 BY MR. WIDNELL:

19 Q. Did you learn about any other professional
 20 leagues that had similar pay disparities, such as the
 21 UFC?

22 A. Over time the closest to our sport is the
 23 other combat sport, boxing. And I had been made
 24 aware online that boxers can receive up to 80 percent
 25 of a purse of the total revenue on any given card.

1 had come up the ranks. And it appeared that they
 2 could do well at the UFC level.

3 And then, of course, they went on after the
 4 acquisition and the fighters were acquired to do well
 5 at the UFC level. And as I stated earlier, Tyron
 6 Woodley, a Strikeforce fighter, is now the current
 7 welterweight champ. Luke Rockhold, a Strikeforce
 8 champion, had become the middleweight champion of the
 9 UFC.

10 So I think that's a fair assessment at that
 11 point. That they, at the time of acquisition, had
 12 become a fairly competition organization. I think
 13 that's why the UFC wanted to acquire them and to
 14 acquire their fighters.

15 Q. But in 2009 they weren't?

16 MR. DELL'ANGELO: Objection to form.

17 THE WITNESS: As I stated earlier, they were
 18 on the rise, but they were not an elite organization
 19 and not a viable option if I wanted to fight the best
 20 in the world.

21 BY MR. WIDNELL:

22 Q. When did you find out about the pay
 23 disparity compared to organizations like the NFL?

24 A. I believe I was on a tour for the troops in
 25 2010 or 2011. And Sean O'Hara of the NFL -- I think

1 And that seemed even more disheartening by the fact
 2 that they were paid that much more and we were paid
 3 that much less.

4 And they had the ability to fight people.
 5 They had an independent ranking system, that the
 6 promoters were not the matchmakers. And the ranking
 7 system, they didn't run the ranking system and the
 8 matchmaking at the same time, which is something that
 9 we were dealing with in the UFC.

10 The UFC controlled our careers entirely.
 11 They picked who we fought, when we fought. They
 12 could choose if we were on the undercard and didn't
 13 make sponsorship money. They chose to give us
 14 bonuses or not give us bonuses based on a number of
 15 things.

16 They had stated that, you know, you'll get
 17 your bonus if you fight exciting and you give a good
 18 show for the fans. And that was not always the case.
 19 When I fought Ricardo Romero, I had a 21-second
 20 knockout. It was a huge pay-per-view card. And I
 21 believe I got a \$3,000 bonus for that.

22 Did they have to give me the bonus? No.
 23 But \$3,000 on top of what I was making was a drop in
 24 the ocean. It doesn't cover much, if anything.

25 Q. Do you get basically the same level of pay

1 as other fighters in the UFC?

2 MR. DELL'ANGELO: Objection to form.

3 THE WITNESS: Pay varies greatly among
4 fighters in the UFC. There are some fighters, like
5 Conor McGregor, who make a great deal more money than
6 other fighters.

7 But I think the general language in our
8 contracts is similar, and the way that they control
9 the fighters is quite similar. And our options
10 outside of the UFC are similar for every fighter
11 BY MR. WIDNELL:

12 Q. I'm sorry. You said your options are
13 similar for every fighter outside of the UFC; is that
14 correct?

15 A. Yeah. That is referring to the fact that as
16 Pride became a viable competitor, they were purchased
17 along with their fighters. As Strikeforce became a
18 viable competitor, they were purchased along with
19 their fighters.

20 And there aren't any options outside of the
21 UFC that are on par with the UFC, if any. And I
22 believe at this current time in mixed martial arts,
23 companies like the World Series of Fighting and
24 Bellator are not on the same level as the UFC.

25 And if you want to fight the best fight and

1 question to suggest that that's what you were saying.
2 I was asking the question: If a fighter leaves the
3 UFC, does the fighter -- do different fighters get
4 different levels of compensation?

5 MR. DELL'ANGELO: Objection to the form.

6 THE WITNESS: What I said was just as in the
7 UFC fighters are paid differently. When fighters
8 leave the UFC, they can be paid differently.

9 But that wasn't my point. My point was that
10 our options for leaving the UFC are the same and that
11 our options are quite limited by the fact that the
12 UFC has acquired the viable competition.

13 BY MR. WIDNELL:

14 Q. Do you know any fighters who have left the
15 UFC who are still competing in Adam May events?

16 A. I do.

17 Q. Is it your understanding that they are not
18 well compensated?

19 MR. DELL'ANGELO: Objection to form.

20 THE WITNESS: I wouldn't know if fighters
21 who have gone on to fight in other organizations are
22 well compensated because the definition of "well
23 compensated" is not simply a dollar amount. It is,
24 in my personal opinion, what would be a percentage of
25 the total revenue. That would be compensated fairly.

1 consider yourself an elite level fighter, there's
2 only one place to do that, and that's within the UFC.

3 Q. When you said the options are the same, does
4 that mean the compensation is the same for all
5 fighters who leave the UFC?

6 A. No, I didn't say that, and that's not even
7 what I said among the UFC. I said there are vast
8 differences in what people would be paid in the UFC.
9 And I mentioned Conor McGregor getting significantly
10 more money than other people. I have no problem with
11 that. Conor McGregor is still underpaid. And if it
12 was a free and open market, we'd be paid
13 significantly more.

14 Q. So you'd say that when fighters leave the
15 UFC, they get very different compensation potentially
16 too, or would you say that it's very similar?

17 MR. DELL'ANGELO: Objection to the form.

18 THE WITNESS: I don't know what happens when
19 fighters leave the UFC, and I have not fought outside
20 of the UFC after --

21 MR. DELL'ANGELO: Objection to the form.

22 THE WITNESS: No, that is not what I'm
23 saying.

24 BY MR. WIDNELL:

25 Q. I apologize. I did not mean to ask that

1 So if somebody leaves the UFC and was making
2 50 grand to show and 50 grand to win and they leave
3 and they get \$10,000 and \$10,000 in another
4 organization, that really depends upon the level of
5 total revenue within that organization.

6 BY MR. WIDNELL:

7 Q. So if the revenue of that organization is
8 significantly lower, it could be very good
9 compensation. Is that what you're saying?

10 MR. DELL'ANGELO: Objection to form.

11 THE WITNESS: I would be speculating because
12 I don't know the numbers of other organizations. And
13 I don't know what fighters, even the ones that I do
14 know that fight outside the UFC, I do not know what
15 they're making.

16 BY MR. WIDNELL:

17 Q. Do you think organizations ever offer more
18 money to fighters leaving the UFC than the UFC offers
19 them?

20 MR. DELL'ANGELO: Objection to the form.

21 THE WITNESS: As stated previously, I don't
22 know what other fighters are making. But because of
23 the fact that the UFC is the big dog, they have the
24 most revenue, and the fact that they control the
25 contracts, I don't imagine that any other

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1 organization would pay them substantially more than
 2 what the UFC is paying them currently.

3 It doesn't make sense if they don't have the
 4 same fan base. It doesn't make sense. And it
 5 doesn't make sense with our contracts either.
 6 Because there's no true free agency, it limits our
 7 ability and has a chilling effect on our ability to
 8 make more money leaving the UFC.

9 Another organization isn't going to try to
 10 get into a bidding war with the UFC knowing that if
 11 the UFC truly wants them, they can just purchase them
 12 at any price.

13 And with the fact that they have an
 14 exclusive negotiating period for 60 to 90 days and
 15 the fact that they have a right to match for an
 16 additional year, it doesn't make sense for other
 17 organizations to try to buy someone out just because
 18 they've had their last bout in their contract.

19 BY MR. WIDNELL:

20 Q. So just to be clear. You'd say that based
 21 on your understanding of UFC's practices and its
 22 contractual practices, it would not make sense for
 23 another organization to offer more money than UFC is
 24 paying for a UFC fighter; is that correct?

25 MR. DELL'ANGELO: Objection to form. Calls

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1 for speculation. And compound.

2 THE WITNESS: In my opinion, other
 3 organizations simply aren't in a position to do so.
 4 I'm sure there are instances where a fighter might
 5 have been paid more to fight in a different
 6 organization outside of the UFC. But I would think
 7 that to be rare.

8 And the fact is we don't see bidding wars
 9 over fighters. And I've mentioned the contracts and
 10 exclusivity. So I believe I've answered the rest of
 11 that question.

12 BY MR. WIDNELL:

13 Q. You said that fighters in the UFC are paid
 14 different amounts of money; is that correct?

15 A. That is correct.

16 Q. They receive different compensation; is that
 17 correct?

18 A. That is correct.

19 Q. What level of compensation did you receive
 20 compared to other fighters?

21 MR. DELL'ANGELO: Objection to form and
 22 calls for speculation.

23 BY MR. WIDNELL:

24 Q. Actually, that's a good point. I don't want
 25 you to speculate. Did you talk to your team members

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1 on AKA about what kind of compensation they received?
 2 A. I had spoken -- I don't remember specific
 3 details. I know that the fighters who have been
 4 fighting longer were paid more. My Ultimate Fighter
 5 contract was considered standard, base-level pay at
 6 the time.

7 Q. If you had just gone straight into the UFC
 8 instead of going into the Ultimate Fighter, would you
 9 have been paid more?

10 A. I have no idea. I have no idea.

11 Q. Did Mr. Fitch enter the UFC by going
 12 straight to fighting events instead of going through
 13 the Ultimate Fighter?

14 MR. DELL'ANGELO: Objection to form.

15 THE WITNESS: Mr. Fitch did go to the UFC
 16 first instead of being on the Ultimate Fighter
 17 Season 1. And if I remember correctly, he was paid
 18 less in his first fight in the UFC. But he wasn't
 19 locked into a three-fight deal with the potential for
 20 a six-fight deal, with the potential for a nine-fight
 21 deal. And he was also -- he entered into the UFC at
 22 a different time period than I did. So entry level
 23 pay in my year would be different from entry level
 24 pay in his year.

25 ///

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1 BY MR. WIDNELL:

2 Q. Was the entry level pay in your year higher
 3 or lower than the entry level of pay in his year?

4 MR. DELL'ANGELO: Objection to the form.

5 THE WITNESS: I would be guessing on what
 6 entry level pay is. As I stated, I wasn't sure. I
 7 was informed that when I made it to the UFC, that
 8 this was the stock entry level pay that they were
 9 willing to give to new fighters.

10 And that was slightly higher, if my
 11 estimation is correct. \$8,000 and \$8,000 versus
 12 \$5,000 and \$5,000 in Jon Fitch's instance.

13 BY MR. WIDNELL:

14 Q. Did Mr. Fitch ever show you what kind of pay
 15 he was getting as he progressed through the UFC?

16 A. I never reviewed any of Jon's contracts. I
 17 think if I was aware of the exact dollar amounts, it
 18 was like maybe because I saw them on an MMA site
 19 posting of what everyone had made, along with what
 20 the UFC had made in ticket sales and revenue.

21 Q. You talked about the point in time when
 22 Mr. Fitch was caught over the video game incident.
 23 Do you recall that?

24 A. I do recall.

25 Q. Do you recall Mr. White saying how much